

ORDINANCE NO. 20200604-047

AN ORDINANCE ESTABLISHING A PILOT PROGRAM APPLICABLE TO RETAIL STORES, RESTAURANTS, OR COCKTAIL LOUNGES THAT WANT TO SELL OR PROVIDE GOODS, FOOD, AND BEVERAGES OUTDOORS AND MODIFYING CHAPTER 4-20 (*SPECIAL EVENTS*) TO FACILITATE THE SALE OR PROVISION OF GOODS, FOOD, AND BEVERAGES OUTDOORS ON PRIVATE PARKING LOTS AND PUBLIC RIGHT-OF-WAY BY THESE BUSINESSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS.

The council finds the following:

- (1) The COVID-19 pandemic is causing unparalleled economic damage to Austin's local small business community beginning with the necessary cancellation of SXSW and other special events that occur during the spring festival season.
- (2) In response to the pandemic, Governor Greg Abbott, the City of Austin and Travis County issued a series of orders (collectively "Orders") that combined to temporarily close non-essential businesses, including dine-in restaurants, bars, salons, gyms, retail shops and which established social distancing guidelines and limited public gatherings to fewer than ten people.
- (3) These necessary Orders were designed to protect the public's health and were intended to keep infection rates in Austin and Travis County from spiking and overwhelming area hospitals and the health care system. However, the Orders have also resulted in alarming rates of unemployment and imperiled the survival of Austin's local small business.
- (4) While the City, the State, and the federal government have provided funding and programs to help businesses withstand the shock of sudden and prolonged closures, a combination of innovative measures may be needed to help Austin's small business. Moreover, the Council did not anticipate the need for this pilot program until the economic crisis resulting from the pandemic.
- (5) Austin's restaurants, bars, and retail businesses have taken an enormous economic hit from the pandemic crisis, and for most of the City, these types

of businesses represent often iconic community gathering spots to gather to drink, dine, listen to music, or shop. Many employees have been laid off, and several of these iconic places are on the brink of permanent closure.

- (6) The pilot program will improve access to available outdoor spaces for Austin's local, small business community. This improved access will allow these businesses to open at greater capacity and operate safely with adequate social distancing measures to protect customers. Additionally, increased use of available outdoor space for dining and shopping will serve to attract more business activity, boost the local economy, and match best practices by urban planners for placemaking strategies to create pedestrian-friendly activity.
- (7) The pilot program will provide an opportunity for businesses that were required to close or significantly modify operations as a result of the Orders and the public health emergency to address the secondary-effects of COVID-19. Small businesses eligible for this pilot program may need small grants to assist with the safe reopening of the business.
- (8) The Council determines that the use of a City sidewalk or on-street parking space provides a public benefit to the City because it will allow businesses to operate safely with adequate social distancing measures that protect the customers, employees, and the general public.
- (9) The Council recognizes that Austin's small business community includes a variety of industries that are not restaurants, bars, and retail businesses but are also suffering the impact of economic downturn resulting from the pandemic. This is particularly true for small business that provide personal services such as hair and manicure salons, or massage therapy. Because many personal services are subject to state health regulations, operating outdoors may be challenging or may not provide the benefit that would make such operations financially rewarding.
- (10) The purpose of a pilot program is to learn the positives and negatives of the program, to figure out what works and does not work, and better understand the level of community interest in the program. Because special events that include food, beverages, and goods are already common, starting the pilot program with these three types of businesses will serve the purpose of a pilot program.

- (11) Thriving local businesses are vital to Austin's economic and community well-being, and the Council is committed to employing innovative measures that increase resiliency for small business owners and their employees. As the pilot program moves forward, Council can consider expanding the types of businesses that may participate in the pilot program.

PART 2. Pilot Program.

- (A) This ordinance creates a pilot program applicable to a retail store, restaurant, or cocktail lounge that wants to sell or provide goods, food, and beverages on adjacent private parking lots, City streets, sidewalks, or rights-of-way, including city on-street parking spaces.

(B) Eligibility

- (1) A Tier 2 event, as defined in Chapter 4-20 (*Special Events*), is eligible for the pilot program if it meets the following criteria:

- (a) the event must occur on private parking lot or a City street, sidewalk, or right-of-way that is adjacent to a:
 - (i) retail store,
 - (ii) restaurant,
 - (iii) cocktail lounge, or
 - (iv) a group of retail stores, restaurants, or cocktail lounges that share a private parking lot or are located on the same two blocks of a street, sidewalk, or city right-of-way; and
- (b) the event will not include the use of sound equipment;
- (c) the anticipated number of attendees will not exceed the occupancy limit for the retail store, restaurant, cocktail lounge, or group of retail stores, restaurants, or cocktail lounges; and
- (d) if the event will impact a City street or other right-of-way that is not a sidewalk or city on-street parking space, the impact to the City street or other right-of-way will not exceed 48 hours.

- (2) A Tier 2 event described in (B)(1) that is held primarily on private property remains eligible for the pilot program even if the event will exceed the four-day limit in Section 4-20-21(B)(2) because of participation in the pilot program.

- (C) The pilot program will begin on June 15, 2020. Unless the City Council or City Manager determines it is necessary to terminate the program earlier, the program will end on December 15, 2020.
- (D) The City Council authorizes the City Manager to terminate this pilot program without further Council action.
- (E) The City Council directs the City Manager to place an item on its December 3, 2020, agenda to consider extending the pilot program.

PART 3. Definitions.

- (A) A term defined by Chapter 4-20 (*Special Events*) has the same meaning in this ordinance.
- (B) In this ordinance, the following definitions apply:
 - (1) COCKTAIL LOUNGE means a business that sells alcoholic beverages for consumption on the premises, including taverns, bars, and similar uses, other than a restaurant.
 - (2) RESTAURANT means a business that prepares and sells food or beverages and may include the sale and on-premises consumption of alcoholic beverages.
 - (3) RETAIL STORE means a business that sells or rents commonly used goods and merchandise for personal or household use.

PART 4. Requirements. A Tier 2 event participating in the pilot program is subject to Chapter 4-20 (*Special Events*) except as modified in this part.

- (A) The application deadline in Section 4-20-30 (*Special Event Application Fees and Deadlines*) does not apply.
- (B) ACE will take final action to approve or deny an application no later than 10 business days after the application is deemed complete.
- (C) Except as provided in Subsections (D) and (E), a special event permit expires 30 days from the date the permit is issued.
- (D) A special event permit that includes a City street or other right-of-way that is not a sidewalk or city on-street parking space expires after the event occurs and is not eligible for a renewal described in Subsection (G).

- (E) ACE may issue a special event permit that expires in less than 30 days from the date it is issued if another regulated activity is already approved to occur at the same right-of-way closure area.
- (F) An event organizer shall:
 - (1) allow attendees to use the bathroom facilities located within the retail store, restaurant, cocktail lounge; or
 - (2) provide portable toilets based on the estimated number of attendees at the special event.
- (G) Renewals. An event organizer may renew its special event permit as set forth in this subsection.
 - (1) To renew a special event permit, an event organizer must submit a special event application at least five business days before the permit expires.
 - (2) Except as provided as Subsection (G)(3), ACE will take final action to approve or deny an application no later than five days after the application is deemed complete.
 - (3) ACE will take final action to approve or deny an application no later than 10 business days after the application is deemed complete if:
 - (a) the application is substantially different from the application for the active special event permit; or
 - (b) the special event permit expires before the application to renew is submitted.

PART 5. Fees.

- (A) Except as otherwise provided in this part, an event organizer shall pay the fees, including application fees, applicable to a Tier 2 special event.
- (B) The use of a sidewalk or City on-street parking space. An event organizer shall pay the fee established for the daily safety closure fee applicable for one block once every 30 days

PART 6. Updates, Evaluations, and Recommendations.

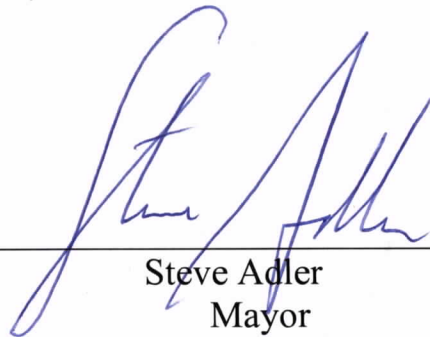
- (A) The City Council directs the City Manager to provide an update on the numbers of permits requested and approved, the effect of the program on parking and right-of-way availability, and a measurement of the effectiveness of the program to facilitate stronger and safer reopening of local businesses after the first 60 days of the pilot program.
- (B) Using the information generated by the pilot program, the City Council directs the City Manager to include any recommended changes to the pilot program when the City Manager brings forward an ordinance to extend the pilot program on December 3, 2020.

PART 7. This ordinance takes effect on June 15, 2020.

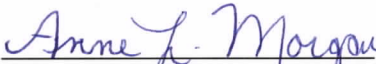
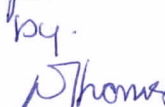
PASSED AND APPROVED


_____, June 4, 2020

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Steve Adler
Mayor

APPROVED: 
Anne L. Morgan
City Attorney
by 

ATTEST: 
Jannette S. Goodall
City Clerk